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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,736	08/04/2003	Ed Kopidlansky	EKJ-101	5590
42419	7590	06/07/2005	EXAMINER	
PAULEY PETERSEN & ERICKSON 2800 WEST HIGGINS ROAD SUITE 365 HOFFMAN ESTATES, IL 60195			HOESLY, RYAN C	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/633,736	KOPIDLANSKY, ED
	<b>Examiner</b>	<b>Art Unit</b>
	Ryan C. Hoesly	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 March 2005.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,5-12,14,16-26,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,5-12,14,16-26,28 and 29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 March 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7-12, 14, 16-19, 21-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert et al (US 704885) in view of McCauley (US 3572561). Lambert teaches a combined mud guard, supplemental seat, and parcel holder for bicycles that includes a frame assembly attachable to upright bars of a cycle for carrying objects. The frame assembly includes clamp members (8), a bracket (4), and a top plate (5), where all these elements are removably attached to each other. Lambert does not teach the clamping method disclosed by the applicant.

McCauley teaches a luggage carrier accessory, which is a luggage rack attached to upright bars of a cycle. The McCauley device attaches to the upright bars via a clamping assembly that includes a cover plate (50) and lock plate (28) attached with elongated fasteners (56) through common apertures so that the side edges of the cover and lock plates are flush with the upright bars in a sandwich relationship. The cover plate forms at least one U-shaped channel that follows the contours of the bars and could be called a clamping block.

While both the Lambert and McCauley devices are disclosed for use with a bicycle, they would both be capable of being used on the upright bars of a

motorcycle. Both Lambert and McCauley use clamping assemblies to attach racks to upright bars of cycles, therefore, it would have been obvious to one skilled in the art at the time of invention to combine the teachings of Lambert and McCauley to produce a luggage rack with the disclosed attributes and clamping assembly. With regards to the interchangeable plate, Figure 11 of Lambert shows that the plate is removable and would be capable of being replaced with another plate of any size or orientation provided the fastening holes remained in the same place. As shown in the previous action the use of designs such as the maltese cross, flame, and skull are used in ornamental luggage accessories (<http://soetengadesign.com/slimline%20racks.htm>).

With regards to claim 22, the cover plate and lock plate would be capable of being placed anywhere along the upright bars including above the upper edges of the female sleeves.

With regards to claim 24, McCauley shows that the plates that make up the clamping member can have side edges (52 and 54) and a middle section (50) that conforms to the shape of the upright bars to secure the device.

3. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert et al (US 704885) in view of McCauley (US 3572561) as applied to claims 1, 7-12, 14, 16-19, 21-26, and 28 above, and further in view of Lutkus et al (US 6224311). Lutkus teaches coated fastener inserts and method of producing the same that illustrates the addition of a wire fastener insert (22) for use with a threaded aperture (14). Lutkus discloses that the wire inserts can be made of stainless steel (column 1, line 46).

It would have been obvious to one skilled in the art to provide the apertures of Lambert and McCauley with stainless steel inserts as shown in the technology of Lutkus to prevent corrosion and enhance the threaded connection.

Claims 20 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert et al (US 704885) in view of McCauley (US 3572561) as applied to claims 1, 7-12, 14, 16-19, 21-26, and 28 above, and further in view of Holtzclaw (US D325820). Holtzclaw teaches a carrying case for firearms that includes a protective enclosure with a flap that fastens to the main body of the enclosure via a fastener (Figure 8). While the Holtzclaw device is disclosed as being used for firearms, it has all the elements of the applicant's claims and would be capable of protecting a plate. It would have been obvious to one skilled in the art at the time of invention to utilize the Holtzclaw device to protect the removable plate of Lambert.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 5-12, 14, 16-26, 28, and 29 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Price (US 5299832) teaches a rear fender support for motorcycles that illustrates the attachment of a rack to upright bars whereas the rack has multiple interchangeable top plates.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

Art Unit: 3727

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

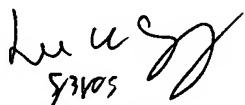
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan C. Hoesly whose telephone number is (571)-272-6083. The examiner can normally be reached on Monday-Thursday 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (571) 272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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